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April 29, 2024

Via ECF

Hon. John P. Cronan, U.S.D.J.
United States District Court, Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Richard K., et al. v. United Behavioral Health, et al.*
Civil Action No. 1:18-cv-06318-JPC-BCM

Dear Judge Cronan:

This office represents Defendants United Behavioral Health and Oxford Health Insurance of New York in the above-referenced matter. Together with counsel for the Plaintiffs, we jointly move the Court to reinstate a stay of this matter pending resolution by the United States Court of Appeals for the Ninth Circuit of United Behavioral Health's petition for mandamus relief in *Wit v. United Behavioral Health*, Case No. 3:14-cv-02346-JCS (N.D. Cal.), No. 24-242 (9th Cir.).

This matter was originally stayed on July 15, 2019 (ECF No. 52), pending resolution of *Wit v. United Behavioral Health* case, No. 3:14-cv-02346-JCS (N.D. Cal.), No. 24-242 (9th Cir.), a class action in which Plaintiff K.K. was a certified class member.

On August 22, 2023, the Ninth Circuit issued an Opinion and Order affirming in part and reversing in part the district court's final judgment in *Wit*, entered on February 1, 2021, and remanding the case for further proceedings. *See* N.D. Cal. Case No. 3:14-CV-02346-JCS, ECF No. 602 at 37; *Wit v. United Behavioral Health*, 79 F.4th 1068 (9th Cir. Aug. 22, 2023). Specifically, the Ninth Circuit reversed class certification on the *Wit* Plaintiffs' claim for denial of benefits, and then reversed district court's judgment on the merits in favor of Plaintiffs with respect to the denial of benefits claim. Following the August 22 Opinion and Order, the Ninth Circuit issued its mandate on September 13, 2023. *See* N.D. Cal. Case No. 3:14-cv-02346-JCS, ECF No. 603.

On October 18, 2023, in light of the Ninth's Circuit's mandate in the *Wit* appeal, the Parties jointly moved to lift the stay in this matter, which this Court granted on November 15, 2023. *See* ECF No. 69.

Following the Ninth Circuit's remand of the *Wit* action, the district court in *Wit* declined to enter judgment with respect to plaintiffs' denial of benefits claim and allowed plaintiffs to renew their motion to certify their denial of benefits claim as a class action. *See* N.D. Cal. Case No. 3:14-CV-02346-JCS, ECF No. 625 at 44, 46-49. Thereafter, United Behavioral Health filed a Petition for a Writ of Mandamus with the Ninth Circuit, asking the Ninth Circuit to decide whether the further proceedings ordered by the district court are consistent with the Ninth Circuit's September 13, 2023 mandate. *See* Case No. 24-242, ECF No. 1. United Behavioral Health also moved to stay district court proceedings pending the Ninth Court's disposition of the mandamus petition. *Id.* at ECF No. 7. On March 12, 2024, the Ninth Circuit stayed all district court proceedings in the *Wit* matter pending its resolution of United Behavioral Health's mandamus petition. *Id.* at ECF No. 11.

In light of the Ninth Circuit's ruling staying all district court proceedings in *Wit*, and because Plaintiff K.K. is a member of the putative class in *Wit*, the Parties jointly request that the Court reinstitute a stay of this matter pending the Ninth Circuit's resolution of United Behavioral Health's mandamus petition in the *Wit* matter.


Respectfully submitted,

/s/Michael H. Bernstein
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Attorneys for Defendants

/s/Brian S. King
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Attorneys for Plaintiffs

The request is granted. This case is stayed until further order from the Court. The parties shall file a status letter with the Court upon the earlier of the resolution of the mandamus petition in the Ninth Circuit or the passage of two months from the date of this Order.

SO ORDERED.
Date: April 30, 2024
New York, New York


JOHN P. CRONAN
United States District Judge